

REMARKS

By the present amendment, Claims 1-20 remain in this application. Claims 1 and 2 have been amended. Claims 9-13, 18 and 19 have been objected to as being dependent upon a rejected base claim, but allowable if rewritten in independent form and as such require no further comment by Applicant. Applicant respectfully request consideration and withdrawal of the rejections in view of the foregoing amendments and following remarks.

CLAIMS REJECTIONS – 35 U.S.C. §102

Examiner rejected Claim 1 under 35 U.S.C. §102(b) as being anticipated by *Bingay* (U.S. Patent No. 1,498,537). This rejection is respectfully traversed. As discussed below, *Bingay* fails to teach each and every element of the rejected claims and, in fact, teaches away from Applicants' invention.

Such rejection under §102 for anticipation requires that the single reference teach each and every element or step of the rejected claim. *See, Atlas Powder v. E.I. DuPont*, 750 F.2d 1569 (224 USPQ 409) (Fed. Cir. 1984). Examiner's rejections under §102 fail to meet this test.

Bingay does not disclose a tortuous pathway further comprising a plurality of baffles. This limitation is nowhere found in *Bingay*.

For the reasons stated above, Applicants respectfully request that the Examiner withdraw the rejections to Claim 1 under 35 U.S.C. §102.

CLAIM REJECTIONS - 35 U.S.C. §103

Examiner rejected Claims 2, 3, 5, 6, 8, 14, and 15 under 35 U.S.C. §103(a) as being unpatentable over *Bingay* and in view of *Miller* (U.S. Patent No. 1,367,164). This rejection is respectfully traversed. As noted above, *Bingay* does not disclose the invention claimed and, in fact, teaches away from Applicants' invention. The same is true of the combination of *Bingay* and *Miller*.

Bingay is a protective device for oil in a tank (Column 1, lines 9-12). *Miller* is directed to a breather for an internal combustion element (Column 1, lines 10-13). Obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either explicitly or implicitly in the references themselves or in the knowledge generally available to one of ordinary skill in the art. "The test for an implicit showing is what the combined teachings, knowledge of one of ordinary skill in the art, and the nature of the problem to be solved as a whole would have suggested to those of ordinary skill in the art." *In re Kotzab*, 217 F.3d 1365, 1370, 55 USPQ2d 1313, 1317 (Fed. Cir. 2000). See also *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988); *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). There is no motivation, teaching, or suggestion, either explicit or implicit, to modify *Bingay* in view of *Miller*. To suggest that mechanisms of *Miller* can be applied to the device shown in *Bingay* is unfounded as *Miller* lacks any concern for filtering air for use with devices such as a transformer.

Examiner rejected Claims 4 under 35 U.S.C. §103(a) as being unpatentable over *Bingay* and in view of *Gill*. This rejection is respectfully traversed. As noted above, *Bingay* does not disclose the invention claimed and, in fact, teaches away from Applicants' invention. The same

is true of the combination of *Bingay* and *Gill*. As claim 1 specifically calls for baffling to provide a filter-like pathway, the combination of *Bingay* and *Gill* do not provide this feature.

Examiner rejected Claim 7 under 35 U.S.C. §103(a) as being unpatentable over *Bingay* and in view of *Miller* and further in view of *Gill*. For the reasons stated above, Applicants traverse this rejection as none of the references, alone or in combination, disclose baffling as a filter means.

Examiner rejected Claim 16 under 35 U.S.C. §103(a) as being unpatentable over *Bingay* in view of *Zelch*. For the reasons stated above, Applicants traverse this rejection as none of the references, alone or in combination, disclose baffling as a filter means.

Examiner rejected Claims 17 and 20 under 35 U.S.C. §103(a) as being unpatentable over *Bingay* in view of *Miller* further in view of *Zelch*. For the reasons stated above, Applicants traverse this rejection as none of the references, alone or in combination, disclose baffling as a filter means.

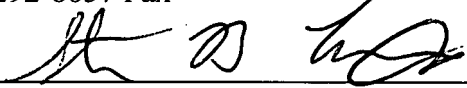
CONCLUSION

In light of the amendments made and the arguments presented by Applicants above, Applicants submit that Claims 1-20 are now in a condition for allowance. Applicants respectfully request that Examiner withdraw all rejections with regard to the above-referenced claims in reliance on one or more of the grounds submitted by Applicants.

If there are any outstanding issues which the Examiner feels may be resolved by way of a telephone conference, the Examiner is cordially invited to contact Steven B. Leavitt at 972-412-2671.

Respectfully submitted,

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